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Testimony of the National Leased Housing Association
Presented by Roy Ziegler, New Hope, PA
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Committee on Financial Services
Subcommittee on Housing & Community Opportunity

The National Leased Housing Association (NLHA) is pleased to submit our views relating to housing affordability issues impacting the Section 8 programs. For the past thirty years, NLHA has represented the interests of housing agencies, developers, lenders, housing managers, and others involved in providing federally assisted rental housing. Our members are primarily involved in the Section 8 housing programs – both project-based and tenant-based. NLHA's members provide housing assistance for nearly three million families.

We appreciate the opportunity to present our views on the Section 8 programs and look forward to working with the subcommittee on improving the housing opportunities for low and moderate income Americans.

Our testimony today will focus on the provisions of H.R. 3995 that relate to tenant based or project based Section 8.

Section 8 Vouchers

A critical component of any national housing policy is the Section 8 voucher program. Under the voucher program, tenants receive a portable subsidy to allow them to afford to rent an apartment or single family home that is decent, safe and sanitary. Over 1.5 million families currently benefit from participation in this program.

Over the years, the Section 8 tenant-based programs have been improved dramatically by consolidating regulations, removing certain barriers to landlord participation and adding flexibility to enable the voucher program to increase a family's chance of achieving self-

sufficiency and/or to provide homeownership opportunities. NLHA's members appreciate the interest this subcommittee has shown in sustaining and improving the voucher program over the years.

Recognizing Rising Rents

The rents permitted under the voucher program have not kept pace with the rising rental markets in many parts of the country. As a result, there is a dearth of available apartments resulting in vouchers being turned back to our agencies at a much higher rate than normal. In fact, many agencies issue more vouchers than they have available due to anticipated turn backs. For example, a PHA with 10 available vouchers may need to allocate 25 vouchers before the 10 vouchers are successfully leased up. In other words, an agency can have a 95 percent utilization rate, but only a 75 percent success rate. Not only is this frustrating to the families waiting for assistance, it significantly increases the workload of the issuing agency.

HUD has already taken one important step by allowing the increase in Fair Market Rents in some areas to be raised to the 50th percentile. We request that Congress urge HUD to expand this increase to all markets. The Fair Market Rents (FMRs) being set at the 50th percentile means that 49 percent of units rent above that amount and 49 percent rent below it – in other words, the 50th percentile FMR is the average rent for the area. Since most of the FMRs are currently set at the 40th percentile, HUD is actually saying that a “fair” market rent is **below** the average rent for the area.

Congress can also take steps to improve the ability for families to successfully use their vouchers by amending the statutory provisions relating to the “payment standard.” The payment standard sets the subsidy amount under the program and families pay the difference between that standard and 30 percent of their income. If the rent for the unit exceeds the payment standard, the family also pays the difference between the payment standard and the apartment rent - up to 40 percent of income (for new voucher participants). Generally, PHAs set the payment standard at the FMR, but current law allows PHAs the flexibility to set the payment standard for the voucher program between 90 and 110 percent of the Fair Market Rent (FMR). HUD field offices can approve exception payment standards up to 120 percent of FMR. This enables the PHA to adjust the payment standard to more accurately reflect the rental market in the area. However, with increasing rents in many communities, it would be more helpful if the PHAs had the authority to raise the payment standard to 120 percent of FMR without HUD approval.

We understand that the initial draft of H.R. 3995 contained a provision to increase a PHA's ability to raise the payment standard to 120 percent of FMR, but was removed due to budget authority concerns. We urge you to reinstate the provision during markup of the bill.

NLHA also believes that added flexibility in the inspection timeframes for voucher units would increase lease-up rates and supports the proposals offered by the National Multi Housing Council.

Flexibility in Tenant Payment Cap

A second issue that plays a large role in preventing lease-up relates to the 40 percent cap. Currently, families that are receiving voucher assistance for the first time or are currently in the program, but wish to move to a new unit are not permitted to pay more than 40 percent of adjusted income for rent. NLHA supports a cap as a general rule, but believes flexibility is key to address extenuating circumstances. An example of such a circumstance is an elderly woman renting an apartment with her spouse, the spouse dies. The reduction in income qualifies the woman for a voucher, but as she would be paying 42 percent of income for rent, the law requires her to move to a cheaper unit. This is a difficult concept to explain to someone that has lived in their apartment for many years, is afraid to move and to boot, would be paying 60 percent of her income without the voucher.

We appreciate Section 402 of the bill that amends the 40 percent cap provision to liberalize the calculation, thereby helping to address the above situations, but request that PHAs be provided exception authority to the 40 percent cap to allow families/elderly to rent in-place.

Covering the Costs of Running a Program

Agencies that administer the Section 8 program are paid a fee for each unit leased-up. However, over the years, the fee has been reduced while the costs of administering the program have continued to rise. The current fee is often inadequate for smaller agencies, or in tight rental markets and doesn't reflect the costs of providing significant search assistance to families, especially larger families or families with special needs that require more intensive assistance.

Many of the administrative costs for tenant briefings, counseling and inspections are incurred prior to lease-up, but agencies do not receive an administrative fee until a lease is executed. This process can take four to six months. In the past, agencies were paid a preliminary fee for every voucher holder. Congress reduced funding for such fees and only provides them for incremental vouchers. This has caused a huge gap in our funding needs. We strongly support your efforts to provide HUD the authority to offer incentive fees to high performing agencies (Section 405), but request that the reinstatement of preliminary fees be considered.

We applaud the provision (Section 403) to permit PHAs to use a portion of unused Section 8 budget authority for services and payments to help families obtain housing. Such funds could be used for security deposits, grants or loans, landlord incentive programs, expanded mobility programs, tenant education and housing search programs.

Enhanced Vouchers

The loss of project-based Section 8 units remains a concern for many communities. Congress has taken steps to preserve this inventory which have mitigated the number of opt-outs, but the project-based Section 8 inventory has shrunk by over 150,000 units. Fortunately, Congress has provided vouchers at sufficient rents to prevent the displacement of the families living in the apartments at the time of opt-out or prepayment. However, the lease-up of the enhanced vouchers can be burdensome and time consuming to housing agencies. The statutory requirement that every unit be inspected before an enhanced voucher is provided has resulted in significant delays, especially in larger projects. Unlike in the regular voucher program, many of the properties have been inspected by the Real Estate Assessment Center (REAC) prior to the expiration of the project-based contracts or the prepayment of the mortgage. It is redundant for the PHA to be required to re-inspect the units. We recommend that the law be amended to waive the inspection requirement if the property in question received a REAC score greater than 60 within the previous 12 months.

Section 406 would provide parity with the project-based Section 8 program regarding the treatment of “overhoused” families that receive vouchers. Considering that enhanced vouchers are provided to former recipients of project-based Section 8 to allow them to remain in their current homes after an opt-out or prepayment, this provision makes sense. By the same token, Section 404 levels the playing field for enhanced voucher recipients by prohibiting re-screening under different rules. Thank you for recognizing these inequities.

Section 8 Renewals

A number of PHAs and state housing agencies administer project-based Section 8 under the Moderate Rehabilitation program. This program provided over 100,000 units of housing, over half of which has been lost. The law governing Section 8 renewals currently provides disparate treatment of moderate rehabilitation contracts resulting in many owners leaving the program

We strongly support Section 408 of the bill that would treat expirations of Section 8 moderate rehabilitation contracts like all other Section 8 contract expirations. In doing so, we can preserve the remaining 50,000 apartments assisted under the program. We appreciate the leadership of Chairman Roukema and Rep. Andrews on this important issue.

Thrifty Vouchers

H.R. 3995 adds another project-based Section 8 Voucher program to the existing program, which was substantially revised by Congress less than two years ago and is

attracting industry interest. The proposed program differs significantly in its terms from the current voucher program, and even has a different allocation mechanism for incremental vouchers. NLHA has concerns about the need for and desirability of the proposed program.

Ability to Use Thrifty Vouchers

The proposed thrifty voucher (or “T-voucher”) is extremely limited in its usability. In addition to being restricted to newly constructed or substantially rehabilitated properties, it cannot attach to a unit of housing unless the rent for that unit does not exceed the reasonable operating costs attributable to the unit plus tenant paid utilities. In some cases, the maximum rent may have to be lower than operating costs as the rent is also capped at 75 percent of the Section 8 Fair Market Rent or payment standard, which in rural areas with low FMRs may be less than operating costs plus utilities.

It would be necessary, then, for the entire capital cost of a unit to be written down to zero, and perhaps with some writedown of operating costs in rural areas, for a T voucher to be usable. The principal vehicle for this writedown is the HOME program, a broad-based program that subsidizes the construction, substantial rehabilitation, moderate rehabilitation and acquisition of both rental and homeownership units, and the provision of tenant-based rental assistance. The cities, counties and states that receive HOME grants distribute them among eligible activities in accordance with local priorities. Grant funds in all but the very largest communities are quite limited and tend to be spread thinly among various activities. Historically, about 25 percent of HOME funds have been used to support newly constructed rental properties, in an average per unit amount of about \$22,500.

The per unit HOME subsidy would have to be increased substantially for the T voucher to be usable, and the consequence would be either a reduction in the number of units produced with HOME assistance or a shift in priorities away from other HOME activities such as homeownership assistance. At the historic 25 percent allocation level for new construction, only 7 cities and counties in the entire country have HOME grants large enough to assist 50 units with T vouchers (at \$60,000 a unit) without exceeding 25 percent of the HOME grant, and only 20 cities and counties could support 50 t-voucher units without exceeding the use of more than 50 percent of their HOME funds. A dramatic increase in HOME appropriations would be helpful but is unlikely. Indeed, the section 8 voucher budget has shown a greater tendency for growth in recent years than the HOME budget, so we question the wisdom of shifting more of the financial burden from section 8 to the HOME production subsidies.

In addition, while the present value of section 8 payments to cover debt service over the term of a loan (under the existing voucher form) is comparable to the cost of a front-end grant to cover capital costs (which would be necessary with the T voucher), the crucial initial year appropriation for a HOME grant under the T voucher approach would exceed the section 8 initial year appropriation under the current approach by an approximate magnitude of 15 to 1. We are concerned, therefore, about the potential negative impact

of the T voucher mechanism on the volume of assisted housing units that might be produced under the combined HOME and Section 8 programs.

Purported Cost Savings

The purported cost savings of T vouchers are merely a shift in the source of subsidies. It may also be thought, however, that the T voucher is more economical because it is based on a budget review of operating costs rather than on market rents. This belief is misguided for two reasons. First, since T vouchers can only be used where there is a deep capital subsidy, the comparison should be made between regular vouchers and T vouchers in HOME projects. The HOME subsidy is designed to reduce rents to specified maximum levels. The amount of the HOME assistance to a project developer is measured to achieve specified rent levels based on a project's construction and operating budgets. The current section 8 rent is limited to the lower of the HOME approved rent or market rent. Further, where multiple subsidies are involved, such as tax credits and HOME, federal law requires a subsidy layering analysis to ensure that the combined subsidies are not more than necessary to achieve the desired rent levels.

Second, H.R. 3995 includes in the rents subsidized by the T voucher an ample cash flow allowance equal to 15 percent of all other operating costs, including owner paid utilities and an asset management fee. This level of allowance plus asset management fee is within the range of what an owner of comparable unsubsidized rental properties might consider as a reasonable amount for compensation and is substantially in excess of HUD limitations where imposed on subsidized rental projects. We are not saying that this level of surplus is unreasonable, but only that the cost saving benefits of T vouchers may be exaggerated. The T voucher is hardly so bare boned as its name suggests.

Impact on Tenants

The T voucher program has a lower income limit than the regular program – 30 percent of the median income for the area rather than 50 percent of median income. However, the current program targets at least 75 percent of the vouchers to families at 30 percent of median income or below. We believe that the current income limits and targeting requirements should not be further tightened if the voucher program is to be able to function over broad geographic areas. In any event, it is not necessary to create a new program in order to change income limits or targeting requirements.

Tenants should be concerned about the T vouchers because if they became the dominant form of project-based voucher, pressure would mount to make them more usable (and to achieve costs savings) by permitting rents in excess of the T voucher payment standard, as is possible in the current program, up to the statutory cap of 40 percent of the tenant's income. The potential result of these shifts would find a tenant in a HOME project with a T voucher paying 40 percent of its income toward rent and wondering how it happened that a rent at 85 percent of the old payment standard results in a tenant payment of 40 percent of income rather than 30 percent.

Administrative Complexities

The entire T voucher proposal is complex, the disadvantage of which is magnified by the anticipated low volume of the program. There is a lot to master for very little result. The proposal includes separate rules for projects for the elderly or disabled and projects for families, separate rules for projects located in qualified census tracts and those not located in qualified census tracts, separate rules for projects with no more than 25 percent of the units subsidized by T vouchers and those with more than 25 percent subsidized, separate rules for incremental T vouchers identified in appropriation Acts and for conversions of existing regular vouchers to T vouchers by PHAs. Even the definition of “extremely low income” under the proposed program differs in the measurement of 30 percent of median income from the definition of extremely low income in the rest of the section 8 voucher program.

In conclusion, the T proposal is a well-intentioned effort to enhance housing assistance, but we believe the proposal is a step backward, and we urge the Committee to reject it.

NLHA is committed to maximizing housing opportunities for low and moderate-income families and stands ready to assist the subcommittee in its work. Thank you for the opportunity to present testimony.